

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

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**PUBLIC SERVICE
COMMISSION**

In the Matter of:)
APPLICATION OF KENTUCKY POWER)
COMPANY D/B/A AMERICAN ELECTRIC)
POWER FOR APPROVAL, TO THE) **CASE NO. 2002-00475**
EXTENT NECESSARY, TO TRANSFER)
FUNCTIONAL CONTROL OF)
TRANSMISSION FACILITIES LOCATED)
IN KENTUCKY TO PJM INTERCONNECTION,)
L.L.C. PURSUANT TO KRS 278.218)

**POST HEARING BRIEF OF
PJM INTERCONNECTION, LLC**

I. INTRODUCTION

PJM Interconnection, LLC (hereinafter PJM) wishes to thank the Kentucky Public Service Commission (hereinafter Commission) for its prompt attention to this important matter. Since neither the Commission's staff nor any intervenor sponsored a witness, PJM's brief will focus on issues raised through cross-examination, describe PJM in general and enumerate the benefits that PJM will bring to the Commonwealth. As discussed in Section II, *infra*, AEP's decision to join PJM:

- Enhances the Commission's jurisdiction
- Supports the Commonwealth's status as a low-cost state
- Is consistent with the Commonwealth's native load requirements
- Establishes a sound participant funding cost allocation procedure for transmission upgrades
- Improves reliability of service to the citizens of the Commonwealth from today

- Provides the Commonwealth with the benefits described in Mr. Hinkel's testimony, including a proven congestion management system, reliable electric system operations, proven regional planning process, an effective market monitor, and independent governance

PJM takes no position on any retail rate issues that may be associated with the above-captioned case but wishes to serve as a resource to the Commission as an unbiased provider of information. PJM urges the Commission to find, based on the unrebutted record evidence, that AEP's application to transfer functional control of its transmission assets to PJM is for a proper purpose and is in the public interest.

II. DISCUSSION

Pursuant to KRS 278.218, AEP filed an application before the Commission for approval to transfer functional control of its transmission facilities located in Kentucky to PJM. KRS 278.218(2) states that, "The Commission shall grant its approval if the transaction is for a proper purpose and is consistent with the public interest." In any formal administrative hearing before the Commission, the Commission is the trier of fact of the evidence brought before it in the hearing. *Owen County Rural Electric Co-op. Corp. v. Public Service Commission of Kentucky*, 689 S.W. 2d 599. If a party is aggrieved by an order of the Commission, that party may bring an action against the Commission in the Franklin Circuit Court to set aside or vacate the Commission's Order on the ground that "... it is unlawful or unreasonable." (KRS 278.410) The matter then, pursuant to KRS 278.440, "... shall be heard and decided by the court upon the evidence submitted to the Commission as shown by the record, and no other evidence shall be received." *Stephens v. Kentucky Utilities Company*, 569 S.W. 2D 155.

In the above-captioned case, the Commission must rely on the written record, which consists solely of AEP and PJM testimony. The Commission Staff and intervenors expressed through their cross-examination concerns about the following: 1) jurisdiction; 2) maintaining the Commonwealth's status as a low cost state; 3) native load preference; and 4) who pays for transmission upgrades. PJM has answered these questions as detailed below and demonstrated how its markets support these critical goals. The record also contains testimony demonstrating the unrefuted facts concerning the PJM marketplace and the enhancements it brings customers.

A. THE COMMISSION'S JURISDICTION IS PRESERVED AND ENHANCED

The transfer of functional control of AEP's transmission facilities to PJM does not erode the Commission's jurisdiction; instead, it enhances the Commission's jurisdiction by providing the Commission with new regulatory tools and resources to meet its statutory requirements pursuant to KRS Chapter 278. As is now the case, the Commission will retain jurisdiction over planning and siting, and oversight over retail rates. Most importantly, the Commission will retain jurisdiction over AEP's power dispatch and purchasing practices consistent with the Pike County Doctrine. *Pike County Light & Power Util. Comm'n*, 465 A.2d 735, 738 (Pa. 1983). The Kentucky Industrial Utility Customers (hereinafter Industrials) questioned whether transferring functional control to PJM would give FERC more control over Kentucky Power's generation. (Tr. at 124-25). The record evidence undisputedly demonstrates that PJM will not dispatch AEP's system differently than AEP does today. (Tr. at 32). After transferring functional control of AEP's transmission assets to PJM, the Commission will retain the full scope of

jurisdiction that it exercises today. AEP will still own its transmission assets. AEP admits that the Commission has the capability to disallow costs that are not prudently incurred. (Tr. at 38). Pursuant to its jurisdictional authority, the Commission will be able to disallow imprudently incurred costs after AEP transfers functional control to PJM.

PJM provides new regulatory tools that will enhance the Commission's jurisdiction in carrying out its statutory functions in the area of purchase power costs, planning, siting and reliability oversight. The transparent market price will serve as a tool and the transmission market price provides easily ascertainable market data which can be used by the Commission to judge the reasonableness of AEP's purchasing practices in the Commission's fuel adjustment clause proceedings. This is not easy to do today given the lack of price transparency. With PJM, the Commission will have a benchmark, for each hour, to judge whether AEP's decision to dispatch one of its mid-merit or peaking units was a preferable choice over purchasing from the marketplace.

Moreover, for the first time, the Commission will have access to an independent market monitor in the Kentucky Power region that can be called upon to prepare reports and undertake analysis of any market power abuses that may be alleged by the Commission, retail customers, or wholesale customers in the Commonwealth. Finally, in its planning and siting deliberations, the Commission will have access to an unbiased regional view, as described by Mr. Hinkel (Hinkel at 13-15), which will help it determine whether a particular upgrade is needed.

Equally important, the Commission and PJM will have a Memorandum of Understanding that will establish a strong communications and working relationship. The MOU between the MACRUC states and PJM has successfully precluded

misunderstandings and disagreements regarding transmission asset deployment and operations.

PJM commits to assure that the Commission is apprised of opportunities to participate in PJM's stakeholder processes. For example, PJM will not bypass the jurisdictional siting authority. (Tr. at 102). PJM commits to meet on a one-on-one basis with the Commission to evaluate various planning proposals. (Tr. at 79). As discussed *infra*, the Memorandum of Understanding between the Commission and PJM will establish formal communications between the Commission and PJM's Board and staff. Moreover, PJM will work with the states on funding requirements to allow for Commission and Commission staff participation at key stakeholder meetings in addition to direct meetings with the PJM Board.

B. MAINTAINING THE COMMONWEALTH'S STATUS AS A LOW COST BUNDLED STATE

The Commonwealth's native load customers will receive the same if not better services at the same rates that they do today after AEP transfers functional control to PJM. PJM has both bundled and unbundled states in its current footprint, and has no preference whether a particular state unbundles or not.¹ As discussed *infra*, PJM brings benefits through the wholesale market to both bundled and unbundled states.

AEP states that it chose to join PJM, in part, because the generation production costs are higher in PJM than in MISO. (Tr. at 20). One should not assume on the basis of this rationale that AEP's low cost power dedicated to Kentucky will flow out of AEP's

¹ PJM works with the retail choice states to tailor wholesale programs that support their retail choice programs. PJM is equally committed to working with the bundled states on issues that are important to them.

service territory. As noted by Mr. Baker, Kentucky Power's status as a low cost company is based on an annual average. (Tr. at 52). There are hours in the year when AEP will be able to buy cheaper power from PJM's markets. As Mr. Ott testified, low cost generators that currently serve the Commonwealth's load will still serve the load after AEP is integrated into the PJM. (Tr. at 71).

Mr. Ott sponsored an analysis to determine the economic benefits of forming a larger regional energy market that would incorporate AEP's control area into a single regional RTO also including the control areas of PJM/PJM West, Dayton Power and Light, and Dominion. The analysis demonstrates conclusively that from either a cost-of-service perspective or a perspective as applied to retail customers, assuming the use of marginal clearing price in the wholesale market, potential annual savings to wholesale load serving entities in AEP is very substantial. These savings will translate into real end-use customer savings for Kentucky consumers as the Commission exercises its jurisdiction to assure that retail rates are just and reasonable.

From a cost-of-service perspective, Mr. Ott stated that \$80 million in savings² would accrue to AEP load serving entities. (Tr. at 158). AEP's increased generation production costs reflect the increased economic sales it would make into the larger regional market. (Tr. at 157). Although Mr. Ott rightfully deferred to opine on the extent to which AEP's Pool Agreement would allocate these savings to Kentucky Power customers, Mr. Baker indicated that the profits from incremental sales would flow back to Kentucky as a result of the AEP Pool Agreement. (Tr. at 21).

² By joining PJM, AEP can decrease its net purchase power costs by \$420 million, while realizing only a \$340 million increase in generation production costs. This nets to produce \$80 million in savings.

From a PJM market rules perspective, which assumes that the bilateral contracts in force today were struck at marginal spot prices in the wholesale marketplace, potential annual savings to load serving entities of \$61 million³ would accrue. (Tr. at 156). The analysis also indicates that the transmission congestion charges of \$14.7 million to be paid by AEP load serving entities are entirely hedged by transmission congestion credits that those entities are eligible to request from their generation supply resources to their aggregate demand locations. (Ott's Study Table 2).

The availability of PJM's voluntary spot markets into which AEP may offer incremental sales and seek arbitrage opportunities will not degrade service to native load customers. Mr. Ott recognized that Kentucky Power has low cost generation available from the Big Sandy facility. However, savings would accrue from joining PJM during those hours when Big Sandy is not available (such as during scheduled maintenance outages). (Tr. at 163). Mr. Baker also noted that Big Sandy is a low cost generator, but that AEP will be able to make incremental sales, which will flow through to the Commonwealth under the terms of the AEP Pool Agreement. (Tr. at 21). Mr. Baker noted that there currently are periods when Big Sandy is not the marginal unit, and other units are run instead of Big Sandy. (Tr. at 53). During such times, AEP would be able to offer Big Sandy into PJM's voluntary spot market and to purchase cheaper power from another source; the benefit from the incremental sale would flow to the Commonwealth through the AEP Pool Agreement. (*Id.*; Tr. at 57). These considerations establish that the Commonwealth will benefit as a result of the transfer of functional control of AEP's

³ AEP generation revenues would increase by \$570 million annually, once again reflecting increased sales into the broader wholesale marketplace, and benefiting Kentucky via the AEP Pool Agreement, as Mr. Baker explained. (Tr. at 21).

transmission facilities to PJM, and will see some savings during off-peak hours and during scheduled and unscheduled maintenance.

In short, low cost power will not leave the Commonwealth. PJM's markets are voluntary. AEP can self-schedule to serve its native load in the Commonwealth. The Commission has jurisdiction over AEP's rates. PJM's transparent market will provide information for each hour of the year for the Commission to use to evaluate the reasonableness of AEP's decisions to self-schedule Big Sandy to serve native load. Equally important, AEP admitted the Commission has the authority to disallow costs. (Tr. at 38).

C. NATIVE LOAD PREFERENCE

At the hearing, Mr. Hinkel was asked whether PJM will be able to give priority to the Commonwealth's native load customers in compliance with KRS 278.214. (Tr. at 72). Mr. Hinkel responded that native load customers, along with firm power customers, would receive the highest priority under PJM's emergency rules. (Tr. at 72). If there is an emergency on Kentucky Power's transmission service, PJM will follow its emergency procedures to curtail interruptible non-firm and other users; if those curtailments do not resolve the emergency, then, and only then, would Network Integration Service Customers (including native load customers) and firm service customers be interrupted on a pro rata basis. (Tr. at 75). How a particular utility would handle such curtailment would be governed by the curtailment rules on file with the Commission and would be subject to its oversight. In addition, Mr. Hinkel states in his testimony that, PJM's procedure for curtailment is overall in agreement with KRS 278.214, in that the priority is

to Network Integration Transmission customers (including native load customers) and firm users of the transmission system. (Tr. at 16). Mr. Hinkel also testified that serving native load is the highest priority. (Tr. at 75). What PJM will do is no different than what AEP does today. AEP operates on an integrated system basis. The Commission has not found that AEP is in violation of the statute.

D. PJM'S COST ALLOCATION PROCEDURES FOR TRANSMISSION UPGRADES

PJM can require its member transmission owners to build transmission infrastructure when necessary to meet reliability needs. (Tr. at 75, 95). Such requirements are still subject to state siting processes which the planning process is designed to complement by providing transparent information on who is benefiting and who is paying the costs as noted above. At the hearing, Mr. Hinkel was asked whether KRS 278.212 was consistent with PJM's cost allocation procedures for merchant generation interconnections and line upgrades. (Tr. at 131). Mr. Hinkel explained that PJM uses a participant funding methodology by allocating costs to the entity that caused that particular upgrade to be needed. (Tr. at 83). Under PJM processes, the Interconnection Customer is required to pay the costs associated with the minimum upgrade necessary to accommodate its interconnection request. (PJM OATT Sec. 37.3)⁴ The Transmission Owner is responsible for the remaining costs, which will be borne under Schedule 6 of the PJM Operating Agreement. *Id.* If additional economic capacity is created, and if the Interconnection Customer will use that capacity, then the

⁴ Section 37.3 of the PJM OATT was provided to the Commission in PJM's Answers to Hearing Data Requests, which was filed with the Commission on April 1, 2003.

Interconnection Customer will be required to pay a portion of the costs of the facilities and the upgrades. *Id.*

E. BENEFITS OF JOINING PJM

By joining PJM, AEP and its customers will realize numerous proven benefits, as shown by the record and discussed below. If AEP delays its participation in PJM or another RTO, then those benefits will be delayed and the opportunity to advance the public interest will be deferred. PJM's expert witness Mr. Hinkel explained the benefits of AEP's membership in PJM and clarified misconceptions contained in the questions asked by staff and intervenors.

1. Energy Markets

Fundamentally, it must be remembered that PJM's spot markets are voluntary. They operate effectively as a balancing market and provide an option for load serving entities to "fill in the gaps" when there is a mismatch between load and demand. The spot markets are not substitutes for a utility self-scheduling its low cost generation to meet its native load obligations. Instead, the spot markets provide liquidity when AEP's balancing needs require AEP to look at other options. It also provides a market for AEP's excess generation to be sold in the marketplace rather than sitting idle without the benefits flowing back to the AEP customers.

As a member of PJM, AEP could participate in the spot market or could elect to self-supply or bilaterally purchase energy to meet demand. Market transparency, in either case, allows market participants to make better economic choices. (Hinkel at 3). Even with AEP's resources, it currently acquires off-system energy through bilateral

contracts. Under those circumstances, market participants do not know what others are paying for electricity in the wholesale market. (Hinkel at 3). PJM's price transparency will bring benefits to the Commonwealth by providing market information to market participants.

PJM's energy markets allow market participants to lock-in sale and purchase prices in advance and Locational Marginal Pricing (LMP) allows market participants to see the energy price at the demand location and at the supply location. This shows the actual cost of using a congested path for transmission and encourages the most efficient use of transmission. (Ott at 5). Under the current system used by AEP in the Commonwealth, costs are socialized so there is no direct incentive to build efficient transmission and locate generation in a cost-competitive manner. LMP sends appropriate price signals that encourage the construction of transmission and generation at the places where it is most needed, and maximizes economic gains.

For example, the high cost of transmission in an area will encourage transmission development, in turn reducing congestion and lowering costs. (Hinkel at 9). LMP demonstrates the value of a proposition of building transmission in a given location, thereby allowing investors in transmission to make a prudent business case for investment decisions.

PJM provides both protection and price disclosure because it is a large, liquid, transparent wholesale market. (Hinkel at 9). By participating in PJM, wholesale customers and the local utility can purchase the lowest cost generation available in a

given hour. (Ott at 3). Such purchases are consistent with security constrained economic dispatch,⁵ which optimizes generation every five minutes to meet load. (Ott at 3)

2. Congestion Management

PJM uses locational marginal prices (hereinafter LMP) calculated in the energy market to manage transmission congestion economically. (Hinkel at 10). This is an improvement over the current congestion management system used in the Commonwealth, whereby AEP uses NERC's transmission loading relief procedures. As Mr. Hinkel testified, when there is congestion on the PJM transmission system, unlike today, transmission customers have the option of avoiding curtailment by agreeing to pay transmission congestion charges. *Id.* By contrast, today transmission would face a TLR curtailment and lose all the benefits of a given transaction. A major benefit of the LMP system is that socialization of costs is avoided, since only those entities that cause congestion pay for congestion. *Id.* Additionally, as price signal information is provided by a transparent energy market, LMP-based transmission congestion charges reveal price information necessary for identifying economic transmission or generation enhancements to eliminate the transmission congestion on a long-term basis. *Id.*

AEP currently redispatches generation when there is congestion on its transmission system. (Ott at 4). The cost of redispatch is currently borne by the company's retail and wholesale customers through fuel adjustment clauses and base rate changes. (Ott at 5). PJM's LMP-based market will allocate redispatch costs to cost-causers, and establish energy prices at each demand and supply location enabling market participants to react more efficiently to price signals. (Ott at 5). Market participants can

⁵ The term "security constrained economic dispatch" refers to PJM's process that uses the bids in the market place, the current conditions on the system, load, and generation to determine the least cost generation dispatch that recognizes the physical limitations of the system. (Tr. at 91).

hedge themselves against congestion costs through the use of FTRs. (Hinkel at. 11; Ott at 6). Finally, the use of LMP significantly reduces the need for reliance on TLR procedures.

3. Reliable Electric System Operations

PJM brings additional benefits to the Commonwealth by serving as a neutral entity in charge of reliability. Currently, AEP and the other utilities that have not joined an RTO, perform their reliability functions individually. PJM looks at the entire system and enforces reliability rules. This avoids situations where market participants lean on the system, which threatens reliability. Equally important, PJM has consistently met and exceeded⁶ NERC's reliability standards. (Hinkel at 12). Customers in the Commonwealth will obtain an immediate benefit from this increased reliability.

In addition, PJM sets a regional reserve margin by means of a comprehensive stakeholder process. If the Commission issued an order requiring a lower reserve margin than PJM's regional reserve margin, AEP would be required by PJM to meet the regional reserve margin. However, if the Commission set a higher reserve margin than PJM's regional reserve margin, PJM would support the Commission's order although the costs of such higher reserves would need to be allocated on a state specific basis just as they would be today. This is an improvement over the status quo where the reserve margin is set in the AEP operating agreement with little state review or ability to modify.

4. Proven Regional Planning Process

PJM provides an open planning process that will provide the Commission with access to information prior to the utility filing a siting application. PJM's open

⁶ Attachment C, Operations Summary for Summer 2002, to Mr. Hinkel's testimony demonstrates that the integration of the PJM markets and reliability activities during peak load conditions has met and exceeded NERC standards during the peak months of June and July 2002.

process provides a balanced record for use by the Commonwealth's Power Siting Board, and as discussed supra, PJM's "but for" analysis is completely consistent with the Commonwealth's position on participant funding.⁷ Mr. Hinkel's testimony explains that PJM's open and non-discriminatory regional planning process for generation and transmission promotes the public interest.

The success of PJM's planning process is evidenced by the statistics for growth and development. As shown in the response to the data request from the hearing, the current approved regional plan contains \$726 million of transmission upgrades, \$200 million are baseline upgrades (responsibility of the TOs) and the remainder are direct interconnection facilities and network upgrades required for generation projects (responsibility of the developer). Over 7,000 MW of new generation has been placed in-service since 1999 and another 4,000+ MW of generation are under construction. (*PJM's Post Hearing Response to Data Request*, filed with the Commission on April 14, 2003).

5. Generation Interconnection Procedures

Mr. Hinkel states that the PJM region is relatively more attractive for generation developers because PJM's generation interconnection rules are well established, transparent and non-discriminatory. (Hinkel at 15). This will provide the Commonwealth with more options as it judges future long term contracts to meet load. In addition, PJM's procedures put in a recognized participant funding mechanism available immediately. This avoids unnecessary costs that would otherwise be borne by retail ratepayers.

⁷ On November 15, 2002, the Commission filed comments, in RM01-12-000, stating that participant funding was needed. PJM's "but for" analysis satisfies the Commission's request.

6. Effective Market Monitor

Mr. Hinkel's prefiled direct testimony commented that the Commission will benefit by the information that it will receive from PJM's Market Monitoring Unit if AEP joins PJM. (Hinkel at 16). PJM's effective market monitor will provide the Commission with an additional regulatory resource. PJM's market monitor provides unbiased factual reports of market conditions and specific events. *Id.* The market monitor will investigate events on which the Commission requests an investigation and submit a report to the Commission. (Hinkel at 16). In addition, the market monitor publishes the annual "State of the Market Report," which will provide the Commission with information specific to AEP.

7. Independent Governance

PJM's stakeholder process provides market participants with a mechanism to have significant input into the day-to-day issues that affect PJM's markets and operations. (Hinkel at 7). Equally important, the PJM Board of Managers is advised by the Members and Reliability Committees, while maintaining its independence by not allowing direct communication between the Board members and the individual PJM members. *Id.* Significantly, the Memorandum of Understanding between the Board and the PJM state commissions establishes a vehicle for the Commission to communicate directly to the Board. (Hinkel at 5, 6).

These are all improvements markedly different than today where the Commonwealth's direct interaction with the AEP board is limited at best. Furthermore, there is not an open process to examine AEP's practices short of the Commission taking

on the burden of opening an investigation and undertaking its own intensive review after having to subpoena documents from AEP in order to get to the heart of the issue. Through an open participatory stakeholder process, PJM's decision making and information is done fully in the open. Moreover, PJM is using technology including web broadcasts to ensure that state commissions can participate in these proceedings. Again, PJM is further committed to working with the states on funding requirements to allow for Commission and Commission staff participation at key stakeholder meetings in addition to direct meetings with the PJM Board.

F. COMMON MARKET

Portions of the hearing dealt with questions about whether AEP should have chosen PJM over MISO. PJM's position is that each transmission owner, its regulators, and its other stakeholders should evaluate which RTO is best on the merits, and PJM can best contribute to that process by striving to perform well and earn the trust of all concerned. In any event, the development of the Common Market with MISO, SPP and TVA⁸ will render the distinction between PJM and MISO moot. The Commonwealth will benefit as the result of each of these entities operating under compatible market rules.

By approving AEP's application, the Commonwealth will have all of its utilities operating pursuant to a compatible set of market rules, which will improve

⁸ On April 16, 2003, the Tennessee Valley Authority (TVA) executed a Memorandum of Understanding with PJM and MISO to facilitate a joint and common energy market. Given TVA's pivotal role in the Commonwealth, there will be better coordination of electricity flows going north to south and east to west. The press release is available at: <http://www.pjm.com/contributions/news-releases/2003/20030416-mpt1.pdf>

market coordination and communication. Moreover, PJM and MISO have committed to eliminate the seam between the two RTOs. (Hinkel at 15).

G. PJM ACCOMODATES REGIONAL STRUCTURES

PJM does not believe in the “one size fits all” philosophy, as demonstrated by the highly successful formation of PJM West, where PJM has adapted its market rules to meet local needs, and accommodate diverse stakeholders and market participants. Mr. Hinkel’s prefiled testimony demonstrates that PJM has over seventy-five years of experience operating a regional transmission grid, and over six years of proven experience with markets. (Hinkel at 3). As Mr. Hinkel states in his prefiled testimony PJM West is an example of PJM’s flexibility because Allegheny Power belongs to a different reliability council, East Central Area Reliability Coordinating Council (ECAR) than the rest of PJM. (Hinkel at 4). PJM’s agreements and operations accommodate regional differences.

H. VIRGINIA’S ACTIONS PROVIDE AN OPPORTUNITY FOR THE COMMONWEALTH

In light of the Virginia delay,⁹ The Commonwealth now has the opportunity to spell out its requirements first, and to partner with PJM on building the market, as opposed to waiting for those systems to be designed to meet Virginia’s requirements. The Commission now has the opportunity to place conditions on its approval of the application that benefit the Commonwealth, instead of being in the position where the Commission has to adapt to the Virginia requirements. For example, should the

⁹ Under the Virginia legislation, although causing a delay in transfer of control in Virginia until July 1, 2004, each utility is required to file an application by July 1, 2003. Each electric utility must be fully integrated into an RTO before the end of next year thus putting boundaries around the Commission action and reaffirming its overall intent to move forward with AEP in a FERC-approved RTO.

Commonwealth have a particular reliability requirement, PJM is in a better position to build those into the system now. Otherwise, PJM would have to “bolt on” the requirements at a later time at far greater costs. It is always better to design the system upfront than to continually employ software patches. PJM stands ready to partner with the Commission and its staff to meet any such design needs unique to and reasonably required by the Commission.

I. INDUSTRIALS’ HYPOTHETICALS ARE NOT REALISTIC

As noted *supra*, the Industrials chose not to sponsor a witness in the above captioned proceeding. Instead, during the hearing, the Industrials asked three series of hypotheticals that the Commission should recognize as not being probable: 1) couldn’t PJM file at FERC and ask for a change to its dispatch authority to be able to dispatch for more reasons than relieving congestion? (Tr. at 32); 2) couldn’t PJM file at FERC to make the voluntary hourly and day-ahead markets mandatory, so that the utility would have to buy its requirements back from the PJM markets? (Tr. at 40); and 3) couldn’t PJM change the dispatch must-run criteria to be more or less stringent? (Tr. at 124-125). These proposals are contrary to PJM’s market philosophy, PJM’s history, and the fiduciary duties of the PJM Board. PJM assures the Commission that it has no plans to make such filings.

Moreover, PJM and the regulatory paradigm have three levels of protection to prevent such unrealistic scenarios becoming reality. First, participation in PJM allows a high level of stakeholder input. (Hinkel at 7). Therefore, in order for one of the far reaching hypotheticals to become a reality, it would first need approval by the PJM Members Committee. Before a proposal is voted on at the Members Committee, it goes

through an open stakeholder process in which all PJM members and state commissions have the opportunity to participate in the discussions. Next, the PJM Board would need to approve the proposal before it was filed at FERC. The Board members have three fiduciary duties which would prevent them from approving the sort of proposals suggested in the Industrial's hypotheticals: 1) to promote the safe and reliable operation of the bulk power facilities in the region; 2) to create and operate robust, competitive, and non-discriminatory electric power market in the PJM region; and 3) to avoid undue influence over the operation of the bulk power facilities by any market participant or group of market participants. (Hinkel at 3-4). Finally, FERC would have to approve the filing; during the proceeding, PJM members and state commissions would undoubtedly oppose such filings. Again, PJM assures the Commission that it has no plans to make such filings.

III. CONCLUSION

PJM urges the Commission to find that AEP's application to transfer functional control of its transmission assets to PJM is for a proper purpose and in the public interest. PJM provides transparency that will assist the Commission to better assess the reasonableness of AEP's purchase power decisions. PJM does not take away any authority that the Commission has over those decisions. Similarly, as explained *supra*, the transfer of functional control to PJM will not impact the Commonwealth's status as a low cost state.

The Commission must base its decision on the evidence in the written record of this case. The benefits of joining PJM are provided in Mr. Hinkel's testimony and

summarized in this brief. No party rebutted or even provided testimony challenging the benefits in Mr. Hinkel's testimony. Therefore, PJM urges the Commission to expeditiously approve AEP's application to transfer *functional* control of its transmission assets to PJM.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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